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Date of Signaling and Deposit: February 26, 2007

Patented J. Nelson, Reg. No. 37,996

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David C. Schwartz, *et al.*

Date: February 26, 2007

Serial No.: 10/688,416

Art Unit: 1634

Filing Date: October 17, 2003

Examiner: Narayan K. Bhat

Title: MICRO-CHANNEL LONG MOLECULE  
MANIPULATION SYSTEM

File No.: 960296.00129

Confirmation No.: 2216

RESPONSE TO REQUIREMENT FOR RESTRICTION

Mail Stop Amendment  
Commissioner for Patents  
P O Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In a non-final Office Action mailed October 24, 2006, the Examiner in charge of the above-identified application divided the claims into three (3) groups and required restriction to one of the groups. In response to this requirement, the Applicants provisionally elect Group I (Claims 1-70), with traverse and without prejudice to the eventual filing of a divisional application on any restriction on Groups I and III.

With respect to Groups I and III, the requirement is respectfully traversed on the grounds that the Examiner has not shown that the apparatus of Group III can be used with a materially different method. MPEP § 806.05(e). The Examiner alleged that the apparatus of Group III can be used for cell sorting. Applicants, however, submit that the Examiner has provided no basis for alleging the suitability of the apparatus for cell sorting, or for the ability of cell to migrate in the micro-channels. Further, the purpose of the apparatus of Group III, if used in any of the

alleged materially different methods, would be to achieve fixing and straightening afforded by the methods of Group I. Accordingly, the methods for which the apparatus would be used is not materially different, even if a subsequent process could employ coils rather than polymeric molecules. Therefore, Applicants respectfully request reconsideration of the restriction between Groups I and III.

In addition, the requirement to all Groups is respectfully traversed on the grounds that restriction is optional in all cases. MPEP § 803. If a search and examination of a set of claims can be made without serious burden, the Examiner must examine them on the merits, even though they may arguably be directed at distinct or independent inventions. MPEP § 803. Applicants respectfully submit that the claims of Groups I to III are directed at highly related subject matter, as evidenced by the Examiner classifying all three groups in class 435, and thus can be examined together without serious burden. On the contrary, it will be unnecessarily burdensome on both Applicants and the Office to consider the highly related subject matter in several separate patent applications.

Reconsideration of the requirement for restriction is respectfully requested.

Fees

A petition for a three-month extension of time accompanies this response so that it will be deemed to have been timely filed.

No other extension of time is believed due, but should any additional extension be due, in this or any subsequent response, please consider this to be a petition for the appropriate extension and a request to charge the extension fee to Deposit Account No. 17-0055. No additional fees are believed due; however, if any fees are due, in this or any subsequent response, please charge Deposit Account 17-0055.

Respectfully submitted,



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